

Littlethings, Inc., v. Christopher B. Bridges

Case No. 17-cv-04905-PAE

VERIFYING DECLARATION OF CHRISTOPHER P. BEALL IN SUPPORT OF
DEFENDANTS' MOTION FOR PARTIAL DISMISSAL

EXHIBIT 2



KLEIN
MOYNIHAN
TURCO

ATTORNEYS AT LAW

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CONFIDENTIAL
CEASE AND DESIST

May 24, 2017

Via Electronic Mail (dmiller@foxrothschild.com) and Federal Express:

Mr. Christopher B. Bridges p/k/a Ludacris
c/o Darrell D. Miller, Esq.
Fox Rothschild LLP
1800 Century Park East, Suite 300
Los Angeles, CA 90067

Re: Notice of Copyright Infringement

Dear Mr. Bridges:

This firm serves as intellectual property and litigation counsel to LittleThings, Inc. ("LittleThings"), owner of the website located at littlethings.com (the "LittleThings Website"). We understand that Mr. Darrell D. Miller of Fox Rothschild LLP serves as your legal counsel. The undersigned, of Klein Moynihan Turco LLP, 450 Seventh Avenue, New York, New York 10123, is authorized to act on behalf of LittleThings in this matter.

It is our understanding that you have registered, and operate and control, the Ludacris Instagram account and profile located at <https://www.instagram.com/ludacris/> (the "Instagram Profile"). It has come to LittleThings' attention that you have willfully and knowingly misappropriated LittleThings' original creative content, without authorization, to promote your products and services through your Instagram Profile. By and through this correspondence, we hereby demand that you promptly cease and desist from conduct that constitutes copyright infringement and unfair competition in violation of the United States Copyright Act and Lanham Act, codified at 17 U.S.C. §§ 101 et seq. and 43 U.S.C. §§ 1051 et seq., respectively.

Specifically, the material that has been infringed upon includes an original piece of artwork, created and owned entirely by LittleThings, that is featured on the LittleThings Website in an article entitled *Is Boob Sweat Normal? 8 Things Women Should Know About Sweating Under There* (<https://www.littlethings.com/boob-sweat/>) (the "LittleThings Artwork"). The LittleThings Artwork – with the overlaid text "IT'S THAT TIME OF THE YEAR" – currently appears on your Instagram Profile (<https://www.instagram.com/p/BUa3IMJDNUW/>) (the "Infringing Artwork"). Further, the Infringing Artwork appears adjacent to a hyperlinked URL, which directs users to a webpage promoting your recently released "Vitamin D" single and music video. Notably, the Infringing Artwork bears the LittleThings cloud logo, U.S.

KLEIN MOYNIHAN TURCO

*Mr. Christopher B. Bridges p/k/a Ludacris
c/o Darrell D. Miller, Esq.
Fox Rothschild LLP
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Registration Number 4,996,756, which is a federally registered service mark belonging to LittleThings (the "LittleThings Mark"). Examples of the LittleThings Artwork are enclosed herewith collectively as Exhibit A. Examples of the Infringing Artwork are enclosed herewith collectively as Exhibit B. The LittleThings Mark's Registration Certificate issued by the U.S. Patent and Trademark Office is enclosed herewith as Exhibit C.

LittleThings has a good-faith belief that your use of the LittleThings Artwork in the manner complained of is not authorized by the copyright owner, its agent or the law. As demonstrated by the screenshots enclosed herewith, the Infringing Artwork indisputably reproduces, distributes and displays the copyright-protected LittleThings Artwork without permission. Please note that the minimal variations to the LittleThings Artwork do not rise to the level of creativity necessary to assert fair use or any other defense available under the United States Copyright Act. Further, the LittleThings Artwork is embedded with the federally registered LittleThings Mark and was displayed with identifying information about LittleThings and the LittleThings author. Moreover, the LittleThings Website contains a clear copyright notice at the bottom of every page of the website, thereby putting you on constructive notice of the intellectual property rights held by LittleThings. Notwithstanding the foregoing, you chose to willfully misappropriate the LittleThings Artwork for your own commercial benefit, removing LittleThings' copyright management information in violation of 17 U.S.C. § 1202.

This is an extremely serious matter, and our client is prepared to take any and all steps necessary to protect its valuable intellectual property rights and terminate your infringing conduct, which not only directly infringes upon the intellectual property rights of LittleThings, but also seeks to intentionally confuse consumers as to the source of the Infringing Artwork for economic gain. This constitutes unfair competition and tortious interference with business relations.

Additionally, by accessing the LittleThings Website, you agreed to a number of restrictions contained in the LittleThings Website Terms and Conditions (<http://www.littlethings.com/terms-of-service/>) ("Terms"). Among other things, the Terms prohibit users of the LittleThings Website from copying or otherwise using the LittleThings Artwork. By engaging in the conduct described hereinabove, you have willfully breached these Terms.

KLEIN MOYNIHAN TURCO LLP

*Mr. Christopher B. Bridges p/k/a Inducris
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In light of the foregoing, by and through its attorneys, LittleThings hereby demands that you and your affiliate marketing partners, employees, agents and related entities:

(1) permanently cease and desist from:

- (a) reproducing, distributing, displaying, preparing derivative works from and otherwise using the Infringing Artwork, the LittleThings Artwork and any and all other copyright-protected materials contained on the LittleThings Website in any fashion and in all media (including, but not limited to, the Instagram Profile), regardless of format;
- (b) using the LittleThings Mark and all other LittleThings marks in every medium;
- (c) accessing and/or using the LittleThings Website for any purpose whatsoever;
- (d) violating LittleThings' Terms; and
- (e) engaging in any activities whatsoever directed toward obtaining the business and/or customers of LittleThings, devaluing or diminishing the brand or business of LittleThings and/or deceiving or confusing the public; and

(2) remit payment to LittleThings in the amount of Ten Thousand Dollars (\$10,000.00) in order to compensate our client for damages that it incurred, and for profits wrongfully gained, by your continued, willful and unauthorized use of the LittleThings Artwork.

In addition to the damages sustained by LittleThings, should you choose to persist in your infringing activities, our client fully intends to hold you liable for any and all costs, including attorneys' fees, that it may be forced to incur in defending its intellectual property rights and associated goodwill. Further, please be advised that any continued unauthorized access to the LittleThings Website by you and/or your affiliate marketing partners will be regarded as a federal violation of the Computer Fraud and Abuse Act ("CFAA").

We trust that you recognize the severity of this situation and will immediately comply with our reasonable demands. We expect to receive written assurances from you or your legal counsel by 5:00 PM EDT on Wednesday, May 31, 2017, expressing your willingness to comply with each of the foregoing demands. In the absence of such assurances, we will recommend that LittleThings pursue any and all remedies available to it at law and in equity including, but not limited to, commencing a formal copyright infringement, trademark infringement, trademark dilution, unfair trade practices, breach of contract, tortious interference

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and CFAA lawsuit in the Federal District Court for the Southern District of New York for injunctive relief, as well as statutory damages of \$150,000.00 per work infringed for willful copyright infringement. See 17 U.S.C. § 504(c).

The information contained herein is accurate, and under penalty of perjury, LittleThings asserts that it is the owner and possessor of the exclusive right to the LittleThings Artwork that is being willfully infringed upon by you. This letter does not purport to be a complete statement of the law or of the facts surrounding this matter, and is submitted without prejudice to LittleThings' legal and equitable rights, all of which are expressly reserved.

We look forward to your prompt response.

Sincerely,

KLEIN MOYNIHAN TURCO LLP



Joshua R. Wueller

Enclosures





EXHIBIT B

Instagram

Get the app

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ludacris  [Follow](#)

8,323 posts 8.6m followers 324 following

Entrepreneur distrokid.com/ludacris

Urban (82 of 82 Reporting) (100.0%)
Sorted by Number of Adds

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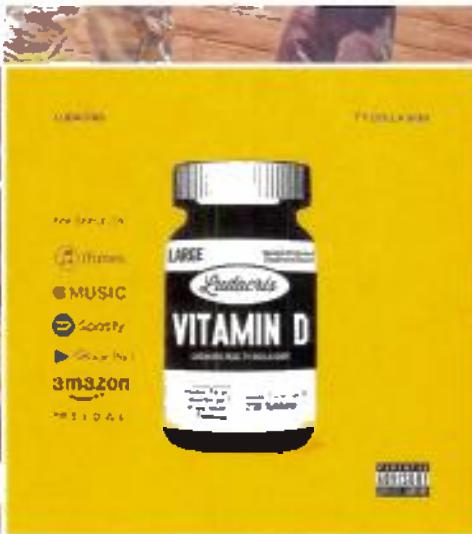
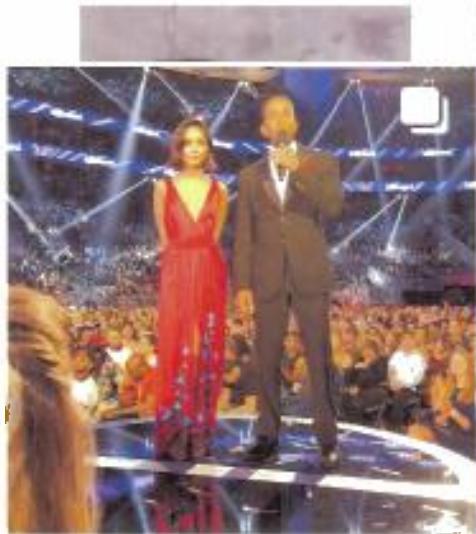
Title

- Vitamin D f/Ty Dolla Sign
- Regret In Your Tears
- Comin' Over
- Somethin Tells Me
- XO Tour Life
- Sippin' f/Gucci Mane



5/23/2017

@ludaon5 • Instagram photos and videos



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EXHIBIT C

United States of America

United States Patent and Trademark Office



Reg. No. 4,996,756

LITTLE FITTINGS, INC. (DELAWARE CORPORATION)
289 SIXTH AVENUE, 16TH FLOOR
NEW YORK, NY 10018

Registered July 12, 2016

Int. Cls.: 41 and 42
FOR: MULTIMEDIA PUBLISHING OF SOFTWARE, GAMES AND ELECTRONIC PUBLICATIONS; PROVIDING INFORMATION, NEWS AND COMMENTARY IN THE FIELD OF ENTERTAINMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

SERVICE MARK

PRINCIPAL REGISTER

FIRST USE 8-29-2014; IN COMMERCE, 8-29-2014.

FOR: PROVIDING A WEB SITE THAT GIVES COMPUTER USERS THE ABILITY TO UPLOAD AND SHARE USER-GENERATED VIDEOS, ESSAYS AND ARTICLES ON A WIDE VARIETY OF TOPICS AND SUBJECTS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 8-29-2014; IN COMMERCE, 8-29-2014.

THE MARK CONSISTS OF A WHITE CLOUD IN FRONT OF AN ORANGE SUN REPRESENTING A PLAY BUTTON WITH BLACK OUTWARD RADIATING LINES.

THE COLOR(S) WHITE, ORANGE AND BLACK IS ARE CLAIMED AS A FEATURE OF THE MARK.

SER. NO. 86-808,864, FILED 11-4-2015.

JOHN DWYER, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office